



DELAWARE HEALTH  
AND SOCIAL SERVICES

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**Division of Management Services**

1901 N. DuPont Highway  
New Castle, DE 19720

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**REQUEST FOR PROPOSAL NO. HSS 13 056**

**FOR**

**THE REGISTRATION AND OPERATION  
OF A MEDICAL MARIJUANA COMPASSION CENTER  
IN THE STATE OF DELAWARE**

**FOR**

**THE DIVISION OF PUBLIC HEALTH  
DELAWARE HEALTH AND SOCIAL SERVICES  
417 FEDERAL STREET  
JESSE COOPER BUILDING  
DOVER, DE 19901**

Application Fee            \$5,000 (made payable to DPH Medical Marijuana Program)

Performance Bond        Waived

**Date Due: March 21, 2014  
11:00 A.M. LOCAL TIME**

A **mandatory pre-bid meeting** will be held on **January 31, 2014 at 10:00am** at Delaware Health and Social Services, Herman M. Holloway Sr. Campus, Procurement Branch, Main Administration Building, Sullivan Street, First Floor Conference Room #198, 1901 North DuPont Highway, New Castle, DE 19720.

Entities who wish to bid on this proposal are **required** to attend this pre-bid meeting for face to face discussion with state personnel responsible for managing the contract(s) resulting from this solicitation. To better ensure meeting space will accommodate those desiring to attend, it is requested that bidders limit representation to 2 individuals. Bidders should RSVP by calling (302) 255-9290 or emailing [DHSS\\_DMS\\_DMSprocure@state.de.us](mailto:DHSS_DMS_DMSprocure@state.de.us).

REQUEST FOR PROPOSAL # HSS 13 056

**Sealed Proposals for The Registration and Operation of a Medical Marijuana Compassion Center in the State of Delaware** for the Division of Public Health, Delaware Health and Social Services, 417 Federal Street, Jesse Cooper Building, Dover, DE 19901, will be **received** by:

Delaware Health and Social Services  
Herman M. Holloway Sr. Campus  
Procurement Branch  
Main Administration Bldg, Sullivan Street  
Second Floor, Room #257  
1901 North DuPont Highway, New Castle, Delaware 19720

Proposals will be accepted until **11:00am on March 21, 2014**. At which time the proposals will be opened and recorded.

A **mandatory pre-bid meeting** will be held on **January 31, 2014 at 10:00am** at Delaware Health and Social Services, Herman M. Holloway Sr. Campus, Procurement Branch, Main Administration Building, 1901 North DuPont Highway, Sullivan Street, First Floor Conference Room #198, New Castle, DE 19720. For further information please call 302-255-9290.

**Entities who wish to bid on this proposal are **required** to attend this pre-bid meeting for face to face discussion with state personnel responsible for managing the contract(s) resulting from this solicitation.**

In the event that state offices are closed on the day of the pre-bid meeting due to a State of Emergency declared by the Governor of Delaware, the pre-bid meeting will be cancelled or postponed. The status of the pre-bid meeting will be posted to the RFP website as soon as possible at <http://bids.delaware.gov>. If the pre-bid meeting is cancelled, written questions will be accepted, in lieu of the pre-bid meeting, in accordance with the instructions presented in Section VI. I. "General Instructions/Questions" of this document. If the pre-bid meeting is postponed, the new date and time will be posted to the RFP website.

### **Obtaining Copies of the RFP**

This RFP is available in electronic form [only] through the State of Delaware Procurement Website at <http://bids.delaware.gov>.

### **Public Notice**

Public notice has been provided in accordance with 29 Del. C. § 6981

## NOTIFICATION TO BIDDERS

Bidder shall list all contracts awarded to it or its predecessor firm(s) by the State of Delaware; during the last three years, by State Department, Division, Contact Person (with address/phone number), period of performance and amount. The Evaluation/Selection Review Committee will consider these Additional references and may contact each of these sources. Information regarding bidder performance gathered from these sources may be included in the Committee's deliberations and factored in the final scoring of the bid. Failure to list any contract as required by this paragraph may be grounds for immediate rejection of the bid.

There will be a ninety (90) day period during which the agency may extend the contract period for renewal if needed.

IMPORTANT: ALL PROPOSALS MUST HAVE OUR RFP NUMBER **(HSS 13 056)** ON THE OUTSIDE ENVELOPE. IF THIS NUMBER IS OMITTED, YOUR PROPOSAL WILL IMMEDIATELY BE REJECTED.

FOR FURTHER BIDDING INFORMATION PLEASE CONTACT:

PROCUREMENT ADMINISTRATOR  
DELAWARE HEALTH AND SOCIAL SERVICES  
PROCUREMENT BRANCH  
MAIN ADMIN BLD, SULLIVAN STREET  
2<sup>ND</sup> FLOOR – ROOM #257  
1901 NORTH DUPONT HIGHWAY  
HERMAN M. HOLLOWAY SR. HEALTH AND  
SOCIAL SERVICES CAMPUS  
NEW CASTLE, DELAWARE 19720  
PHONE: (302)-255-9290

### **IMPORTANT: DELIVERY INSTRUCTIONS**

IT IS THE RESPONSIBILITY OF THE BIDDER TO ENSURE THAT THE PROPOSAL HAS BEEN RECEIVED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, AT THE ADDRESS SHOWN ABOVE, BY THE DEADLINE.

ATTENTION BIDDERS: Your proposal must include a cover letter and the forms in Appendices C, D, and E signed and all information on the forms complete.

**The issuance of this Request for Proposals (RFP) neither commits the Delaware Department of Health and Social Services, Division of Public Health, to award a contract, to pay any costs incurred in the preparation of a proposal or subsequent negotiations, nor to procure or contract for the proposed services. The Division reserves the right to reject or accept any or all proposals or portion thereof, to cancel in part or in its entirety this Request for Proposals, or to delay implementation of any contract which may result, as may be necessary to meet the Department's funding limitations and processing constraints. The Department and Division reserve the right to terminate any contractual agreement upon fifteen (15) days' notice in the event that the State determines that State or Federal funds are no longer available to continue the contract.**

**Organizations Ineligible to Bid**

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

**REQUEST FOR PROPOSAL  
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**Availability of Funds**

In response to the Medical Marijuana Act, Title 16, Chapter 49A, the Department of Health and Social Services, Division of Public Health has been directed to select one vendor to provide services in the area of the **Registration and Operation of a Medical Marijuana Compassion Center in the State of Delaware**. The state procurement process has been chosen as the vehicle for securing these services; however, the establishment and operation of the compassion center will be completely funded by the vendor. Contract renewal every two years is contingent on executive and legislative action, and center performance.

**Pre-Bid Meeting**

A mandatory pre-bid meeting will be held. The meeting will be on **January 31, 2014 at 10:00am** at the following location.

Delaware Health and Social Services  
Herman Holloway, Sr. Social Services Campus  
Main Administration Building, Sullivan Street, 1<sup>st</sup> Floor, Room 198  
1901 N. Dupont Highway, New Castle, DE 19720

Bidders may ask clarifying questions regarding this request for proposal at the pre-bid meeting. Responses to questions posed at the pre-bid meeting will be posted on the internet at <http://bids.delaware.gov>.

**Further Information**

Inquiries regarding this RFP should be addressed to:

Paul Hyland  
Public Health Treatment Program Administrator  
Paul.Hyland@state.de.us  
phone: 302-744-4758  
fax: 302-739-3071

### **Restrictions on Communications with State Staff**

From the issue date of this RFP until a contractor is selected and the selection is announced, bidders are NOT allowed to contact any Division of Public Health staff, except those specified in this RFP, regarding this procurement. Contact between contractors and Paul Hyland is restricted to emailed or faxed questions concerning this proposal. Questions must be submitted in writing and will be addressed in writing.

Questions are due by **January 17, 2014** and will be addressed at the pre-bid meeting. The complete list of questions and their answers may be released via e-mail or fax to the vendors that attended the pre-bid meeting. The complete list of questions and their answers will be posted on the internet at <http://bids.delaware.gov>

Following the pre-bid meeting bidder communication is limited to Procurement Administrator, Delaware Health and Social Services. The central phone number for the Procurement office is (302) 255-9290.

### **Contact with State Employees**

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact(s) regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business. In the case of such exception, communication may not include an active RFP.

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**REQUEST FOR PROPOSAL FOR  
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FOR  
DELAWARE DIVISION OF PUBLIC HEALTH**

**I. INTRODUCTION**

**A. BACKGROUND**

The mission of the Division of Public Health (DPH) is to protect and enhance the health of the people of Delaware. The Division accomplishes its mission by:

- a. Working together with others;
- b. Addressing issues that affect the health of Delawareans;
- c. Keeping track of the State's health;
- d. Promoting positive lifestyles;
- e. Responding to critical health issues and disasters; and
- f. Promoting the availability of health services

The accomplishment of this mission will facilitate the Division in realizing its vision of creating an environment in which people in Delaware can reach their full potential for a healthy life.

With the passing of The Delaware Medical Marijuana Act (hereafter referred to as "the Act"), Title 16, Chapter 49A, which took effect on July 1, 2011, Delaware joined the list of now 20 states that have removed state-level criminal penalties from the medical use of marijuana for the health and welfare of its citizens. The purpose of the law is to protect patients with debilitating medical conditions, as well as their physicians and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

Marijuana's recorded use as a medicine goes back nearly 5,000 years. Modern medical research has confirmed the beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. These include relief of the neuropathic pain caused by multiple sclerosis, HIV/AIDS, and other

illnesses that often fail to respond to conventional treatments and relief of nausea, vomiting, and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens. Specifically, in February 2010, the Center for Medicinal Cannabis Research released a lengthy report that summarized 15 recent studies clearly demonstrating marijuana's medical efficacy for a broad range of conditions. These studies, many of which were double blind, placebo-controlled trials, included neuropathic pain trials published in the Journal of Pain, Neuropsychopharmacology and Neurology, a study on the analgesic efficacy of smoked marijuana published in Anesthesiology, a study on the mechanisms of cannabinoid analgesia in rats published in Pain, and a study on vaporization as a "smokeless" marijuana delivery system published in Clinical Pharmacology & Therapeutics.

Marijuana has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to at least 350,000 patients in states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, the American College of Physicians, the American Nurses Association, the American Public Health Association and the Leukemia and Lymphoma Society.

In February 2012, the portion of the law that allowed for the establishment of compassion centers was suspended by the Governor's Office following new guidance from the US Department of Justice. In August 2013, the Governor provisionally lifted the suspension of compassion centers, reducing the number of compassion centers from three (one in each county) to one pilot program compassion center. The Secretary of the Department of Health and Social Services (hereafter referred to as "the Department") has adopted revised program regulations, effective January 1, 2014. The revisions to the Medical Marijuana Code (hereafter referred to as "the Regulations") establish standards and address the new scope of the program operating with one compassion center and without an independent testing facility.

The purpose of the Medical Marijuana Program (MMP) is to regulate the medical use of marijuana in Delaware and to minimize the risk of theft and diversion of marijuana to unregistered individuals. The patient and caregiver registry program began accepting applications in July 2012 and has now issued more than 50 registry cards to qualified patients and caregivers. With the compassion center suspension lifted, the Department has now been directed to move forward with the implementation of the program by issuing a registration certificate to one qualified vendor for opening a pilot compassion center in Delaware.

Vendors who wish to be considered as an owner and operator of the pilot center should submit their proposal to the Department in response to this Request for Proposal (RFP). Pending the selection of a qualified bidder, the Department will issue a registration certificate to the winning vendor to begin cultivating marijuana for medical use on July 1, 2014. This effort will allow current and future registered patients in Delaware to buy the drug in a state-regulated center and to be educated on the use of the drug to treat their specific medical condition.

To address Federal Justice Department concerns, the Regulations for the compassion center include tight security requirements, including around-the-clock video monitoring, financial accounting controls, random inspections, and a requirement of center employees to verify that patients are registered with the Department before selling them marijuana. The pilot center will only be allowed to cultivate up to 150 marijuana plants, and keep inventory of no more than 1,500 ounces of the drug.

## **B. PROGRAM GOALS**

The goals related to establishing a compassion center in Delaware are in compliance with the Act and the Regulations. The primary goal of the program is assuring the safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana to registered patients. Further, it is the goal of the Office of Medical Marijuana (OMM) to protect the public by preventing diversion of marijuana to individuals who are not qualified and registered with the Delaware MMP.

Bidders selected through this RFP must:

- a. Improve and maintain their organization's knowledge of, and compliance with, the guidelines and policies established in the Act, the Regulations, the Health Information Portability and Accountability Act (HIPAA) and the policies and procedures established by the OMM;
- b. Improve and maintain their organization's knowledge of the medical marijuana industry, including but not limited to a reasonable understanding of current and new strains of marijuana used to treat various debilitating conditions, current and new methods of delivering marijuana to the body, and current or new methods and standards related to testing marijuana for contaminants and potency of active ingredients;
- c. Work to improve their organization's delivery of education to registered patients and their caregivers that are impaneled to their compassion center by the OMM. This education should include, but is not limited to, knowledge of the state and federal laws related to marijuana use and an understanding of the

options available to the patient with regard to specific marijuana strains, products and delivery methods;

- d. Work to increase the availability of affordable medical-grade marijuana to registered, qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance;
- e. Continually evaluate and improve as needed security measures of the compassion center premises and its operations to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana so as to minimize the risk of diversion of marijuana to unregistered individuals;
- f. Improve and maintain financial management and accurate recordkeeping of their organization, where revenues are tracked and accounted for, through efficient operations, securing supplies and equipment at the most cost effective pricing, and managing inventory effectively to allow for efficient and thorough audits of the accounting books by the Department and to provide a reasonable price-point on the marijuana products and paraphernalia to patients; and
- g. Promote and comply with State Legislative Mandates, Program Priorities and Key Issues as listed in the following:

#### 1. State Legislative Mandates

The compassion center business model should include administrative, fiscal, inventory control, cultivation, harvesting, packaging, labeling and dispensing operations necessary to ensure adherence to these requirements.

- a. The registered compassion center shall be operated on a not-for-profit basis. The organization need not be recognized as tax-exempt by the Internal Revenue Service and is not required to incorporate in response to Title 8 of Delaware Code.
- b. A physician may not refer patients to a registered compassion center or registered designated caregiver, advertise in a registered compassion center, or, if the physician issues written certifications, hold any financial interest in a registered compassion center.
- c. The registered compassion center may not purchase usable marijuana or mature marijuana plants from any person other than another registered compassion center in the state of Delaware.
- d. The registered compassion center may not advertise medical marijuana sales in print, broadcast, or by paid in-person solicitation of customers. Appropriate signs on the property of the compassion center, listings in business directories including phone books, listings

in trade or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events will be permitted.

- e. The registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients, who are impaneled to the center by the OMM, with the medical use of marijuana directly or through the qualifying patients' designated caregivers.

## 2. Program Priorities

- a. Assuring the safe cultivation and dispensing of quality, medical grade marijuana to authorized MMP cardholders in a form that is appropriate and effective for the patient and delivers the level of active ingredient needed to treat the patient's medical condition effectively. This includes making available specific strains of marijuana, and various delivery methods, believed by industry experts to be effective in treating the debilitating medical conditions recognized by the MMP.
- b. Assuring public health and safety by minimizing to all extents possible risks of marijuana theft or diversion of marijuana outside of the state-regulated system or to individuals who are not authorized MMP cardholders.
- c. Addressing Federal Justice Department concerns by developing and implementing strong, effective measures that will:
  - a. deter the distribution of marijuana to minors, prohibit access to marijuana by minors, prohibit marijuana in areas that are associated with minors; and prohibit marketing of marijuana to minors;
  - b. deter revenue from the sale of marijuana from being diverted to criminal enterprises, gangs and cartels;
  - c. prevent diversion of marijuana outside of the state-regulated system and to other states;
  - d. prevent state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
  - e. prevent violence and the use of firearms in the cultivation and distribution of marijuana;
  - f. prevent drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
  - g. prevent the cultivation of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

- h. prevent marijuana possession or use on federal or state property.

### 3. Key Issues

In addition to the Program Priorities, the following key issues have implications for the compassion center's continued registration with the program, and should be considered in developing the business plan:

- a. Efficiency and effectiveness in management and operations of the compassion center, including accessibility by the Department for audits and site inspections;
- b. Management and decision-making through performance measures and accountability for outcomes;
- c. Linkages and partnerships with research organizations focusing on increasing the effectiveness of marijuana used to treat debilitating medical conditions and decreasing risks and side effects associated with the drug;
- d. Incorporation of research outcomes that focus on the medical use of marijuana to treat specific debilitating medical conditions;
- e. Data collection for use in monitoring specific cannabinoid performance in treating specific debilitating medical conditions and using the outcomes to improve services to impaneled patients;

## **II. SCOPE OF SERVICES**

All components listed in this section are mandatory.

This section describes the responsibilities of the selected bidder registered and contracted by the Department to open and operate a compassion center in Delaware. Tasks are associated with a deliverable when appropriate. The Department reserves the right to negotiate the requirements with the selected vendor relative to monitoring tasks listed below.

Compassion centers may only operate if they have been issued a valid registration certificate from the Department. The organization awarded the contract for the pilot compassion center will perform the following:

### **A. ESTABLISH AND MAINTAIN A MEDICAL MARIJUANA COMPASSION CENTER**

This RFP is specifically published to select one vendor for the operation of one pilot compassion center, certified by the Department, to serve the patients registered with the MMP.

A registered compassion center is a not-for-profit entity registered with the MMP that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana, paraphernalia, or related supplies and educational materials to registered qualifying patients who



have been impaneled to the dispenser to cultivate marijuana for their medical use and the registered designated caregivers of these patients.

Because the pilot compassion center will be operating as an independent safety compliance facility, the selected bidder will need to address items such as training and testing, as appropriate for the scale of the facility and allowed total quantity of marijuana.

#### 1. Bylaws Establishment and Maintenance

The compassion center shall, as part of its initial proposal, provide to the Department a true, correct, and current copy of its bylaws, and shall maintain such bylaws in accordance with the Act and the Regulations. The bylaws shall include, at a minimum:

- a. The ownership structure of the compassion center;
- b. The composition of the board of directors;
- c. Procedures for the oversight of the compassion center;
- d. Procedures to ensure accurate record keeping and security measures;
- e. A description of the enclosed, locked facility where medical marijuana will be grown, cultivated, harvested, packaged, labeled, or otherwise prepared for distribution by the compassion center; and
- f. Such provisions relative to the disposition of revenues to establish and maintain the not-for-profit character of the compassion center.

#### 2. Physical Location of Compassion Center

The physical location of the compassion center shall be selected in compliance with these legislative mandates:

- a. All cultivation of marijuana for registered compassion centers must take place in an enclosed, locked location at the physical address or addresses provided to the MMP during the registration process, which can only be accessed by MMP-registered compassion center agents working or volunteering for the registered compassion center;
- b. The registered compassion center may not be located within 1,000 feet of the property line of a preexisting public or private school.
- c. The registered compassion center may not share office space with nor refer patients to a physician.

#### 3. Security and Safety Measures

The registered compassion center shall implement appropriate security and safety measures to deter and prevent the theft of marijuana and

unauthorized entrance into areas containing marijuana. Such measures shall at least include the following:

a. Exterior of compassion center premises:

- a. Access from outside the premises shall be kept to a minimum and be well controlled.
- b. The outside perimeter of the premises shall be well-lit.
- c. Entry into any area(s) where marijuana is held shall be limited to authorized personnel only.
- d. Marijuana production, packaging, labeling, or distribution shall not be visible from the street or other public area.

b. Alarm System:

The compassion center shall have a fully operational security alarm system at each authorized physical address that will provide suitable protection against theft and diversion. The system shall include, at a minimum:

- a. Immediate automatic or electronic notification to alert local or municipal *law enforcement agencies* to an unauthorized breach of security at the compassion center or at any other authorized physical address;
- b. Immediate automatic or electronic notification to alert local or municipal *public safety personnel* of a loss of electrical support backup system; and
- c. When appropriate, the security system shall provide protections against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

c. Video Surveillance

The compassion center shall provide an appropriate video surveillance system that includes the following areas and access to recorded surveillance:

- a. Video surveillance should record access areas, customer service areas, growing areas, and anywhere the marijuana is handled, to include processing and packaging areas;
- b. Video footage will be digitally recorded.
- c. The compassion center shall provide the Department with access to the video footage (live and recorded) 24-hours a day, seven days a week through a secure internet connection.

d. Inventory Controls

- a. Total Allowed Quantity:

The registered compassion center shall possess no more than 150 marijuana plants, irrespective of the stage of growth and shall possess no more than 1,500 ounces of usable marijuana regardless of formulation. These total amounts would be applied to the complete compassion center operations, even if the Department authorizes a separate physical address for the cultivation of the drug.

b. Bar Coding Inventory:

The compassion center shall employ a bar coding inventory control system to track batch, strain and amounts of marijuana from each plant to include patients' card registration numbers to whom it was dispensed, dates of harvest, storage, and packaging of usable product. All harvested usable marijuana should be traceable to a specific plant. Every plant should have an accountability of how much marijuana it produced and the end result of that production (distributed to specific patient, stored in retail area, used for testing, destroyed, etc.).

c. Storage of Marijuana

A compassion center shall ensure that usable marijuana is stored in a locked area with adequate security. At a minimum, security should be assessed, established and maintained based on:

- (i) The quantity of usable marijuana that will be kept on hand at each authorized location;
- (ii) The compassion center's inventory system for tracking and dispensing usable marijuana;
- (iii) The number of principal officers, board members, agents, volunteers or employees who have or could have access to the usable marijuana;
- (iv) The geographic location of the compassion center (i.e.: high-crime or low-crime area);
- (v) The scope and sustainability of the security system; and
- (vi) The root-cause analysis of any breach of security and/or inventory discrepancy for usable marijuana at that location.

4. Financial Requirements

As the compassion center will be owned and operated by the selected bidder, the vendor will be required to demonstrate availability of sufficient capital to initiate and maintain operations of the compassion center. Sources of funding shall be identified as described in the records section of this RFP.

a. List of expenses for bidder

All expenses related to establishing the compassion center and maintaining its services are that of the selected bidder, including, but not limited to:

- a. the cost of preparing the proposal/bid in response to this RFP, including the \$5,000 non-refundable application fee;
- b. initial certification and bi-annual fee of \$40,000;
- c. the costs related to obtaining MMP registry cards for all agents associated with the compassion center, now or in the future, including annual registry card application fees of \$125 per agent and the cost of state and multi-jurisdictional criminal background checks for all agents annually;
- d. the costs of sample testing initiated by the Department;
- e. the costs related to establishing an Information Technology system for tracking records and receiving patient and caregiver data from the Department;
- f. the costs of long term off-site records retention; and
- g. the costs of operations and maintenance in all approved locations or addresses, including establishing and maintaining security measures.

b. Financial Operating Principles

As the compassion center is a service mandated by Delaware law, and regulated by the Department, it shall operate, in response to the Act and the Regulations, under the following principles. A registered compassion center shall:

- a. operate on a not-for-profit basis, and shall maintain appropriate documentation of its not-for-profit status. Such documentation shall be available for inspection by the Department upon request;
- b. keep detailed financial reports of proceeds and expenses;
- c. maintain all inventory, sales and financial records in accordance with general accepted accounting principles ("GAAP"); and
- d. create and maintain a plan for making medical marijuana available on an affordable basis to registered qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance.

5. Data Verification System

The selected bidder shall develop and host a secure computer interface to receive patient and caregiver card data from the Department. The system shall be used to verify cardholder's status prior to dispensing marijuana for a registered patient.

## 6. Documentation and Records Maintenance and Retention

All electronic and paper records and documentation shall be maintained in compliance with the Act, the Regulations, and HIPAA, and for a period of time consistent with the OMM retention schedule. All records and books, including financial and inventory operations, will be kept in an auditable format for review during inspections and audits initiated by the Department and available at all times.

The retention schedule, which will be part of the contract resulting from this RFP, may provide an onsite short term timeframe and an offsite, longer term, archival timeframe. It is strongly recommended that the archiving be done through a reputable records retention company. The records that will require short term and long term secure storage include, but are not limited to:

### a. Dispensing Marijuana.

Records of dispensed marijuana, which may be traced according to patient MMP registry identification numbers to protect confidentiality and compassion center's security protocols, shall be maintained. Compliance with the legislative patient possession limit of no more than three ounces dispersed in any fourteen day period and in possession of no more than six ounces at any given time shall be enforced by maintaining internal, confidential records that include at least the following information:

- a. how much marijuana is being dispensed to the registered qualifying patient for each transaction;
- b. whether it was dispensed directly to the registered qualifying patient or to the designated caregiver;
- c. the date and time the marijuana was dispensed; and
- d. the barcode tracking number of the marijuana being dispensed that is traceable to a specific compassion center harvested plant.

### b. Inventory accountability records.

Documentation of all inventory audits and reviews shall include at least the following data:

- a. date the inventory audit or review was conducted;
- b. summary of the inventory findings;
- c. name, signature and title of individual who conducted the inventory; and

### c. Product testing results.

All tests of medical marijuana samples, ensuring freedom from contaminants and determining the potency of the cannabinoids in the various marijuana strains shall be recorded and maintained. These records should include at least:

- a. the batch number of marijuana being tested,
  - b. the amount of marijuana being tested,
  - c. the test being performed,
  - d. where the test is performed,
  - e. the results of the test, and
  - f. the name, title, and signature of the person performing the test
- d. Facility inspections.

Records of all maintenance inspections and tests conducted, results of inspections and tests, and resulting corrective action taken shall be maintained and include, as a minimum, the following items:

- a. the date of the action
  - b. summary of the action(s) performed; and
  - c. name, signature, and title of person who performed the action
- e. Tracking logs of transporting marijuana

Tracking logs will maintained for the transportation of marijuana on behalf of the compassion center. A document will accompany a registered compassion center agent when transporting marijuana on behalf of the registered compassion center. This document shall contain at least the following:

- a. the amount of marijuana being transported;
  - b. the date the marijuana is being transported;
  - c. the barcodes tracking the transported marijuana to the compassion center inventory control system;
  - d. the registry identification number of the registered compassion center and a contact telephone number to verify that the marijuana is being transported on behalf of the registered compassion center;
  - e. the registry identification number of the registered compassion center agent that is transporting the marijuana; and
  - f. the reason for the transportation of the marijuana.
- f. Security Inspections.

Records of inspections and reviews of security devices, including video monitoring, results of inspections and reviews, and any corrective action taken shall be maintained. This shall include any servicing, upgrades or modification to the security system or

devices. Records of all such inspections and actions shall include, as a minimum, the following items:

- a. the date of the action
  - b. summary of the action(s) performed; and
  - c. name, signature, and title of person who performed the action
- g. Alarm activations or breaches of security

Any alarm activation or other event that requires response by public safety personnel shall be recorded. This requirement includes unauthorized breaches of security, even if an alarm activation did not occur. The record will include at a minimum:

- a. the event;
  - b. the action taken in response to the event;
  - c. any changes to the physical nature of the compassion center (e.g. security upgrades, replacements, etc.); and
  - d. any changes to the operating procedures as a result of the event.
- h. All video footage of the facility, inside and out, will be digitally recorded and retained.
- i. Agent/personnel records.

A record shall be made and maintained for any instances in which a business or not-for-profit that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding.

The compassion center shall maintain at least the following records related to all agents of the compassion center. A personnel record shall be maintained for a period of at least six months after termination of the individual's affiliation with the compassion center. The record should include at a minimum:

- a. An application for employment or to volunteer;
  - b. A record of any disciplinary action taken; and
  - c. Documentation of all required training. Documentation shall include a signed statement from the individual indicating the date, time and place of said training and topics discussed, including the name and title of presenter(s);
- j. Financial records and audits for accountability.

A record of the source of any funds that will be used to open or maintain the compassion center, including the name, address, and

date of birth of any investor contributing more than \$5,000, shall be recorded and maintained.

## **B. PROVISION OF MEDICAL MARIJUANA RELATED SERVICES**

The selected bidder will be required to provide safe access to medical grade marijuana for patients and their selected caregivers who possess an active MMP registry card and are impaneled to the compassion center by the OMM.

The vendor will also be required to provide education about the use of medical grade marijuana and related paraphernalia to impaneled patients, with the patient's debilitating medical condition in mind. These services will be provided in accordance with the Act, the Regulations, HIPAA, the policies and procedures established by the OMM, requirements stipulated in this RFP and the contract negotiated and agreed upon with the selected vendor.

### 1. Dispensing Marijuana

A compassion center shall not acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patient's registered designated caregiver.

#### a. Patient Verification

Before marijuana may be dispensed to a designated caregiver or a registered qualifying patient, a compassion center agent must determine that the individual is a current cardholder in the verification system and must verify each of the following:

- a. that the registry identification card presented to the registered compassion center is valid and active;
- b. that the person presenting the card is the person identified on the registry identification card presented to the compassion center agent; and
- c. that the registered compassion center is the OMM designated compassion center for the registered qualifying patient who is obtaining the marijuana directly or via his or her designated caregiver.

A registered compassion center shall not dispense more than three ounces of marijuana to a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. Further, a compassion center agent may not knowingly dispense marijuana to an impaneled patient, or a patient's caregiver, in an amount that



will exceed the patient possession limit of six ounces at any given time.

b. Packaging and Labeling

All usable marijuana dispensed to registered patients and caregivers shall be issued in a sealed, tamperproof and labeled container clearly identified as having been issued by the compassion center. The label shall at least indicate the following:

- a. the name of the compassion center;
- b. the name of the patient, or the patient registry card number, for whom the marijuana is being dispensed;
- c. the name of the marijuana strain;
- d. a batch identified by number or barcode and traceable through inventory controls;
- e. the quantity of marijuana being dispensed;
- f. the statement "this product is for medical use only, not for resale";
- g. a statement that the medical marijuana is free of contaminants; and
- h. details indicating the levels of active ingredients in the marijuana, as confirmed by testing.

Written instructions that the marijuana shall remain in this container at all times except while being consumed or prepared for consumption should be issued with the dispensed marijuana.

c. Adequate supply of drug and paraphernalia

The bidder shall demonstrate a plan in the proposal to provide an adequate supply of medical marijuana to the registered patients in the state. Given the legislative limits on the amount of usable marijuana and number of plants allowed, please estimate how many patients will be serviced and at what rate of patient consumption. If appropriate, indicate the effects on this plan of providing all the necessary marijuana strains known to be effective in treating MMP recognized medical conditions, such as cancer or ALS. The bidder should also propose a list of necessary paraphernalia needed to administer the drug, including quantities and proposed prices for each item.

2. Operation Procedures Manual

The compassion center shall develop, implement and maintain on the premises a current, correct, and true operations manual, which addresses, as a minimum, the requirements outlined in this RFP, the Act

and the Regulations. The operations manual shall be available for review by the Department upon request.

The operations manual shall include at a minimum, the following:

- a. Procedures for the oversight of the compassion center including, but not limited to, documentation of the reporting and management structure of the compassion center;
- b. Procedures for safely dispensing medical marijuana to registered qualifying patients or their registered caregiver;
- c. Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;
- d. Employee security policies;
- e. Safety and security procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
- f. Personal safety and crime prevention techniques and procedures;
- g. A job description or employment contract developed for all employees and a volunteer agreement for all volunteers which includes duties, responsibilities, authority, qualification and supervision;
- h. The compassion center's alcohol and drug free work place policy;
- i. A description of the compassion center's outreach activities to registered qualifying patients or their registered caregiver, as defined in this Scope of Services;
- j. A description of the packaging of the usable marijuana that the compassion center shall be utilizing in the retail store for display and storage, and used to disperse the drug to the patient or caregiver;
- k. A description and example of the document that will accompany a registered compassion center agent when transporting marijuana on behalf of the registered compassion center;
- l. Detailed procedures regarding the testing of medical marijuana as required in these Scope of Services; and.
- m. Detailed procedures of the methodology proposed to grow, cultivate, harvest, and prepare the marijuana for use by the registered patients. The use of pesticides is prohibited in the cultivation of marijuana per Section 7.1.1.4 of the Regulations, so this section should explain how to prevent and treat insect infestations or fungus commonly found in agriculture.

### 3. Outreach

The compassion center shall have a plan for educating the registered patients and registered caregivers impaneled to the compassion center about the medical use of marijuana. The plan

should include a description of how the information will be dispersed to the patients. This plan should include, but is not limited to, the following:

- a. Providing each new registered patient who visits the compassion center with written Frequently Asked Questions, designed by the Department, that explain the limitations on the right to use medical marijuana under state law;
- b. Knowledge of state and federal laws related to marijuana use, including the laws related to transportation of the drug across state lines (e.g. taking it on vacation, etc.);
- c. Education on ingesting options of usable marijuana that are available from the compassion center, as well as availability of required paraphernalia needed to make use of those options;
- d. Education on safe smoking techniques available to patients, and paraphernalia required to make use of those techniques; and
  - Education on the potential side effects of using medical marijuana.

## **C. STAFFING AND TRAINING**

### **1. Staffing**

#### **a. Eligibility**

A person is eligible to work with the compassion center organization as a principal officer, board member, employee, volunteer, or other agent as long as they are at least 21 years old, have not been convicted of an excluded felony offense for a drug misdemeanor within five years of the date of proposal submission, and has not been found to have violated the dispensing limits referred to in the Act.

#### **b. Records**

The compassion center shall maintain records according to the requirements in the Act, the Regulations, and this Scope of Services for the following items, as detailed in the Documentation section of this RFP:

- a. A personnel record for each agent, including any criminal activity or administrative reprimands; and
- b. Source of funds for the compassion center

#### **c. Background Checks**

All agents of a compassion center, including principal officers, board members, employees and volunteers shall consent to a complete criminal history screening background check to

demonstrate compliance with the eligibility requirements. This criminal background check will be conducted prior to any work done on behalf of the compassion center and shall include:

- a. a State Bureau of Identification (SBI) criminal history screening check; and
- b. a Full nationwide criminal history screening check

All applicable fees associated with the required criminal history screening background checks shall be paid by the compassion center or the applicant.

Reports from the background checks can be sent directly to the OMM for expedition of the agent registration process.

d. Registry Identification Cards

All agents of a compassion center, including principal officers, board members, employees and volunteers, shall be issued a registry identification card by the OMM prior to any work done on behalf of the compassion center. OMM will issue an agent registration card within 30 days of receipt of a complete agent application, including background check reports. The agent shall report to the OMM in person to receive their registry identification cards.

Registry identification cards shall expire one year after issuance or at the expiration of the compassion center's license to operate, whichever comes first. Agent card renewal may be granted as long as eligibility is maintained by the agent and the compassion center.

Agent registry card applications, provided by OMM, shall be submitted for each agent to OMM for review and approval. Contents of the application, which will be appended to the contract for the selected bidder, will include:

- a. A written and signed statement from an officer or executive staff member of the compassion center stating that the applicant is associated with the compassion center and in what capacity;
- b. The name, Delaware address, and telephone number of the applicant;
- c. The name, address and telephone number of the compassion center with which the agent will be associated;
- d. The applicant's signature and date;
- e. Applicant attestation statements indicating the applicant's compliance with the rules of the program, including not diverting marijuana or knowingly over dispensing marijuana.

The following items will be submitted with the application:

- f. Birth certificate verifying the applicant is at least 21 years of age;
- g. A reasonable xerographic copy of the applicant's Delaware license or comparable State of Delaware or Federal issued photo identification card verifying Delaware residence. Identification card must be available for inspection/verification at time of MMP card issuance;
- h. A non-refundable, non-returnable application or renewal fee of \$125;
- i. State of Delaware background criminal screening check results available through the State Bureau of Identification (SBI); and
- j. Federal background criminal screening check results available through the FBI.

## **2. Training**

The compassion center shall develop, implement and maintain an on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee, agent and volunteer training needs. Each employee, agent or volunteer, at the time of initial appointment, shall receive, as a minimum, training in the following:

- a. Professional conduct, ethics, and state and federal laws regarding patient confidentiality;
- b. Information developments in the field of medical use of marijuana;
- c. The proper use of security measures and controls that have been adopted;
- d. Specific procedural instructions for responding to an emergency, including robbery or violent incident; and
- e. A complete understanding of the State and Federal laws regarding the distribution and use of marijuana.

## **D. QUALITY ASSURANCE PROCEDURES, TESTING AND MONITORING OF OPERATIONS**

### **1. Quality assurance procedures**

The selected bidder will develop monitoring procedures to insure that services are rendered to patients according to the Act, the Regulations, and the OMM policies and guidelines.

### **2. Product Testing Procedures**

The compassion center shall have a detailed procedure regarding testing of marijuana produced for medical use to confirm it is free of contaminants and to determine the potency of all active ingredients

or cannabinoids. The procedure shall contain a description of how the marijuana will be tested, including:

- a. Whether the testing will be conducted in house or through a contracted facility;
- b. How the marijuana will be transported securely in connection with such testing;
- c. What tests will be conducted, including what testing procedures are used to perform the tests;
- d. How results are tracked and how samples are disposed; and
- e. The selection process and number of samples tested.

### 3. Safety and Compliance Activities

The pilot compassion center will develop a plan to provide services, as appropriate, that were intended for the Safety Compliance Facility until such facility is certified by the Department to perform these functions. The plan shall include, at least, educating compassion center agents in the following areas:

- a. Safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
- b. Security and inventory accountability procedures; and
- c. Up-to-date scientific and medical research findings related to medical marijuana.

### 4. Monitoring of Operations

The bidder will also develop monitoring procedures to insure the safe and secure cultivation of medical marijuana and the production and packaging of retail products. This should include security system monitoring.

The following inspections shall be included in the monitoring procedures:

- a. The compassion center shall conduct a maintenance inspection or test of the alarm system for each authorized location at intervals not to exceed 30 days from the previous inspection or test;
- b. All necessary repairs to ensure the proper operation of the alarm system shall be made promptly; and
- c. If a failure of the security system is due to loss of electrical support or mechanical malfunction that is expected to exceed an 8-hour period, a compassion center shall:
  - Notify the Department by telephone within 24-hours of the discovery of the event;

- Provide alternative security measures approved by the Department or close the authorized physical address(es) impacted by the failure/malfunction until the security system has been restored to full operation.

d. Comprehensive and Monthly Inventories

A compassion center shall notify the Department and local law enforcement within 24 hours any time there is a suspected loss of marijuana and shall cooperate fully with any investigation into the suspected loss.

The compassion center shall conduct an initial comprehensive inventory audit of all medical marijuana, including usable marijuana available for dispensing, mature marijuana plants and unusable marijuana, at each authorized location on the date the compassion center first dispenses medical marijuana.

Additional comprehensive inventory audits shall be conducted at regular intervals not to exceed 24 months from the date of the previous comprehensive inventory audit.

Each month, the compassion center shall conduct an inventory review of stored, usable marijuana. If a discrepancy is identified during this process, the Department and appropriate local law enforcement authorities will be notified of the discrepancy with 24 hours of the discovery of the event

5. Inspections by the department

Registered compassion centers are subject to random inspection by the Department. The compassion center must participate and cooperate with site review activities conducted by the Department. During an inspection, the Department may review the compassion center's confidential records, including its financial and dispensing records. The Department may request review of patient records, financial records, administrative materials and policies, outreach and educational materials and activities, cultivation and packaging operations, and the retail area of the center.

Inspections will be completed in order to ensure the compliance of the facility with the Act, the Regulations, this RFP, and the contract. The Department will inspect the facility for the presence of pesticides, which are prohibited from use in the compassion center, as well as fungus and molds. Samples may be collected for random quality testing by a laboratory selected by the Department. The lab results of sample testing will be compared with compassion center test results. The compassion center will be invoiced for the cost of random sampling testing ordered by the Department.

## **E. OTHER ITEMS TO CONSIDER**

### **1. Confidential and Voluntary Nature of Services**

Patients and caregivers served in the registered and contracted compassion center accept guidance and education from knowledgeable center agents and purchase marijuana on a voluntary basis. Patient confidentiality must be maintained. Patient voluntary and confidential policies found in the Act, the Regulations, and HIPAA govern the privacy and security of patient treatment and information.

### **2. Culturally Competent Service Delivery**

Outreach and retail services provided by the bidder selected and contracted under this RFP must be delivered with cultural competency in terms of language, race, ethnicity, as well as, any demographic variable whose consideration would improve and enhance the effectiveness of the services.

### **3. Items of Extra Consideration**

Where proposals are of comparable rating, accessibility of the services of the compassion center to registered patients throughout Delaware will be given extra consideration. This would include the following items:

- a. physical location of the center;
- b. adequate available parking for patients and caregivers, including safe access for handicapped patients;
- c. hours the center is open to the patients and caregivers;
- d. potential for delivery services for patients that are not able to get to the center.

## **III. SPECIAL TERMS AND CONDITIONS**

### **A. DEFINITION OF TERMS**

The following terms are listed here for convenient reference. They are defined in the Act and the Regulations. This list is alphabetical.

#### **1. The Act**

In this document, the Act refers to the Medical Marijuana Act as defined in Title 16, Chapter 49A of Delaware Code. Here is a link to that law: <http://delcode.delaware.gov/title16/c049a/index.shtml>.

#### **2. Compassion Center Agent**

A compassion center agent means a principal officer, board member, employee, volunteer, or agent of a registered compassion center who

- a. is 21 years of age or older;



- b. has not been convicted of an excluded felony offense for drug misdemeanor within 5 years from the date of application; and
- c. has not been found to have violated Section 7.2.8 of the regulations, which refers to marijuana dispensing limits.

### 3. Debilitating Medical Condition

A debilitating medical condition means one or more of the following: (1) cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, decompensated cirrhosis, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, post-traumatic stress disorder (defined in these definitions), or the treatment of these conditions; (2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain, that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; (3) any other medical condition or its treatment added by the Department, as provided for in §4906A.

### 4. The Department

The Department means the Delaware Department of Health and Social Services (DHSS).

### 5. Designated Caregiver

A designated caregiver means a person who is at least 21 years of age, has agreed to assist with a patient's medical use of marijuana, has not been convicted of an excluded felony offense, and assists no more than five qualifying patients with their medical use of marijuana.

### 6. Enclosed, Locked Facility

An enclosed, locked facility means a greenhouse, building, or other enclosed area equipped with locks or other security devices that is on a registered compassion center's property and permits access only to the compassion center agents working for the registered compassion center.

### 7. Excluded Felony Offense

An excluded felony offense means a violent crime defined in Title 11, §4201(c), that was classified as a felony in the jurisdiction where the person was convicted; or a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, not including an offense for which the sentence, including any term of probation, incarceration, or supervised

release, was completed 10 or more years earlier, or an offense that consisted of conduct for which this Medical Marijuana Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than the state of Delaware.

#### 8. Post-Traumatic Stress Disorder

Post-Traumatic Stress Disorder means that a patient meets the diagnostic criteria for Post-Traumatic Stress Disorder (PTSD), per DSM-5 or subsequent current edition, including symptoms of intense physical reactions such as tachycardia, shortness of breath, rapid breathing, muscle-tension, and sweating.

#### 9. Qualified Medical Marijuana Patient

A qualified medical marijuana patient is any patient who possesses an active Registry Identification Card and receives marijuana dispersed, either in person or through their registered caregiver, from a contracted compassion center. Medical records, including dates and amounts dispensed and to whom the drug was dispensed, of patients must be maintained in accordance with HIPAA rules.

#### 10. Registered Safety Compliance Facility

A registered safety compliance facility means a nonprofit entity that provides services such as testing marijuana produced for medical use for potency and contaminants and training cardholders and prospective compassion center agents. The training may include safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security/inventory accountability procedures and up-to-date scientific and medical research findings related to medical marijuana. Since the pilot compassion center will be operating as a registered safety compliance facility, these tasks will be handled by the pilot center.

#### 11. The Regulations

In this document, the Regulations refer to the Medical Marijuana Code defined in the Register of Regulations. The final regulations will be available in the January 2014 issue of the register. The proposed regulations for the compassion centers are available in the register for October 2014. Here is a link to the register of regulations webpage: <http://regulations.delaware.gov/services/register.shtml>.

#### 12. Usable Marijuana

Usable marijuana means the dried leaves and flowers of the marijuana plant and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, other preparations, but

does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical ointment.

#### **B. LENGTH OF CONTRACT**

The contract term for this pilot center is two (2) years with the possibility of a two (2) year renewal contingent on center performance, continued qualification and additional needs to be addressed.

This contract may be terminated if terms of the agreement are not satisfied or the State of Delaware acting on the advice of legal counsel determines it necessary.

#### **C. SUBCONTRACTORS**

The use of subcontractors will be permitted for administrative bookkeeping or laboratory testing functions as specified below. If a subcontractor is going to be used, this needs to be specified in the proposal, with an identification of the proposed subcontractor, the service(s) to be provided, and its qualifications to provide such service(s).

Subcontractors will be held to the same requirements as the primary contractor. The contract with the primary contractor will bind sub or co-contractors to the primary contractor by the terms, specifications, and standards of the RFP. All such terms, specifications, and standards shall preserve and protect the rights of the agency under the RFP and any subsequent proposals and contracts with respect to the services performed by the sub or co-contractor, so that the sub or co-contractor will not prejudice such rights. Nothing in the RFP shall create any contractual relation between any sub or co-contractor and the agency. The proposed subcontractors must be approved by the Division of Public Health.

Subcontracting payroll or other administrative functions is acceptable; however, access to the accounting books by the Department will not be hindered. No subcontractors will be allowed in any functions directly related to the marijuana handling, such as cultivating, growing, harvesting, packaging, labeling and dispensing, except the subcontracting of marijuana testing if services are acquired by an independent lab.

#### **D. FUNDING DISCLAIMER CLAUSE**

Delaware Health and Social Services reserves the right to reject or accept any bid or portion thereof, as may be necessary to meet the Department's funding limitations and processing constraints. The Department reserves the right to terminate any contractual agreement upon fifteen (15) calendar day's written notice in the event the state

determines that state funds are no longer available to continue said contractual agreement.

#### **E. RESERVED RIGHTS**

Notwithstanding anything to the contrary, the Department reserves the right to:

- a. Reject any and all proposals received in response to this RFP;
- b. Select a proposal other than the one with the lowest cost;
- c. Waive or seek clarification on any information, irregularities, or inconsistencies in proposals received;
- d. Negotiate as to any aspect of the proposal with the bidder and negotiate with more than one bidder at a time;
- e. If negotiations fail to result in an agreement within two (2) weeks, the Department may terminate negotiations and select the next most responsive bidder, prepare and release a new RFP, or take such other action as the Department may deem appropriate.

#### **F. EXPIRATION, RENEWAL, SUSPENSION AND TERMINATION CONDITIONS**

##### **1. Expiration**

A compassion center's registration certificate shall expire two years after issuance. The compassion center may submit a renewal application at any time beginning 90 days prior to the expiration of its registration certificate. Such renewal application must be submitted a minimum of 30 days prior to the expiration of its registration certificate to avoid suspension of the certificate. The renewal application will be available from the OMM at the time of renewal.

##### **2. Renewal**

The Department shall grant a compassion center's renewal application within 30 days of its submission if the following conditions are all satisfied:

- a. The compassion center submits materials required by the Section 7.9 of the Regulations, including a \$40,000 fee, which shall be refunded if the renewal application is rejected;
- b. The Department has not ever suspended the compassion center's registration for violations of the Act or the Regulations;
- c. Inspections conducted in response to the Act and the Regulations do not raise any serious concerns about the continued operation of the registered compassion center applying for renewal; and
- d. The applicant continues to meet all of the requirements for the operation of a compassion center as set forth in the Act and the Regulations.

### 3. Suspension

The Department will suspend a registration certificate authorizing the operation of a compassion center, with or without notice, for any violation of an application law or regulation, or if a complete renewal application is not received before expiration of the current one. A registered compassion center may continue to cultivate and possess marijuana plants during a suspension, but it may not dispense, transfer, or sell marijuana per § 4919A (p) of the Act.

### 4. Termination

The Department may terminate the contract resulting from this RFP at any time that the vendor fails to carry out its provisions or to make substantial progress under the terms specified in this RFP and the resulting proposal.

Prior to taking the appropriate action as described in the contract, the Department will provide the vendor with thirty (30) days' notice of conditions endangering performance. If after such notice the vendor fails to remedy the conditions contained in the notice, the Department shall issue the vendor an order to stop production and distribution of marijuana immediately and dispose of the existing inventory of marijuana.

Upon receipt of written notice that a registration certificate has been terminated, the compassion center has 30 business days to request, in writing, a hearing, for the purpose of review of such action. The hearing process shall follow the procedures in §§ 9.4-9.13 of the Regulations.

The Contract may be terminated in whole or part:

- a. by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance,
- b. by the Department upon fifteen (15) calendar days written notice of the loss of funding or reduction of funding for the stated Contractor services,
- c. by either party without cause upon thirty (30) calendar days written notice to the other party, unless a longer period is specified.

## **G. CONTRACTOR MONITORING/EVALUATION**

The contractor may be monitored/evaluated on-site on a regular basis. Failure of the contractor to cooperate with the monitoring/evaluation process or to resolve any problem(s) identified in the monitoring/evaluation may be cause for termination of the contract.

## H. PAYMENT

This is a zero cost contract. The selected bidder will be issued a registration certificate that will be a permit for operation of a compassion center.

Payment of the \$5,000 application fee will be accepted in a check or money order made payable to "DPH Medical Marijuana Program." This payment is due with the submission of the proposal to the Department.

Payment of the \$40,000 bi-annual registration fee will be accepted in a check or money order made payable to "DPH Medical Marijuana Program." Only the selected bidder will be responsible for this registration fee and it will be due with the vendor signed contract.

## I. W-9 INFORMATION SUBMISSION

Effective January 5, 2009, a new vendor process and use of the new Delaware Substitute Form W-9 was implemented by the Delaware Division of Accounting. With the development of the new Delaware Substitute Form W-9, state organizations are no longer responsible for collecting the Form W-9 from vendors. The vendor has the capability of submitting the required Form W-9 electronically and directly to the Delaware Division of Accounting for approval.

**Awarded** vendors will be required to submit their Form W-9 by accessing this website, <http://accounting.delaware.gov/>. The vendor will complete the secure form, read the affirmation, and submit the form by clicking the "Submit" button. Delaware Division of Accounting staff will review the submitted form for accuracy, completeness, and standardization. Once all the requirements are met, the form will be uploaded to the vendor file and approved. The vendor is then able to be paid for services provided.

For those vendors that do not have internet access, a printable version of the Delaware Substitute Form W-9 can be faxed or mailed to the vendor. Upon completion, the vendor will then fax or mail the form directly to the vendor staff at the Delaware Division of Accounting. All vendor requests, additions and changes, will come directly from the vendor. Questions for vendors who do not have internet access, contact vendor staff at (302) 734-6827.

**This applies only to the successful bidder and should be done when successful contract negotiations are completed. It is not required to be done as part of the submission of the bidder's proposal.**

## J. REQUIRED REPORTING

One of the primary goals in administering the contract resulting from this RFP is to keep accurate records regarding its actual value/usage. This

information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested Vendors.

A Usage Report (Appendix G) shall be furnished on the 15th (or next business day after the 15th day) of each month by the successful Vendor **electronically in Excel format** detailing the purchasing of all items on this contract. The reports (Appendix G) shall be submitted electronically in EXCEL and sent as an attachment to Paul Hyland at [paul.hyland@state.de.us](mailto:paul.hyland@state.de.us). It shall contain the six-digit department and organization code. Any exception to this mandatory requirement may result in cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

Contracted organizations are to submit regular reports listing retail sales and inventory status. Report frequency may be either monthly or quarterly, but must be submitted timely to allow program staff to closely monitor compliance with the program regulations.

All empaneled patients receiving dispensed medical marijuana from the compassion center must be reported by the compassion center on their regular usage reports. Patients are reported for all income levels, as well as, patients who paid on a sliding fee or reduced fee scale. Details about the report are included as an attachment to your provider contract.

#### **K. ADDITIONAL ITEMS REQUIRED FOR SELECTED BIDDER ONLY**

When a bidder is notified that the Department has approved its application and selected its proposal for the contract negotiation process, the applicant shall submit updated information, if anything has changed from the proposal, to the Department before contract negotiations will proceed.

Changes could include but are not limited to:

- a. The legal name, articles of incorporation, and bylaws of the compassion center;
- b. The physical address of the compassion center and any additional address(es) to be used for the secure cultivation of marijuana, including evidence demonstrating compliance with all local zoning laws and required distance of 1,000 feet from existing schools;

- c. Current certificate of occupancy for the physical address and space to be utilized as a compassion center or for the secure cultivation of medical marijuana;
- d. Information about officers, principals, board members, or other agents, employees, and volunteers;

A certification fee, made payable to the DPH Medical Marijuana Program, in the amount of \$40,000, will be required at the time of contract signing.

#### **IV. FORMAT AND CONTENT OF REPONSE**

Proposals shall contain the following information, adhering to the order as shown:

##### **A. APPLICATION FEE**

A non-refundable application fee, in the form of a check or money order made payable to DPH Medical Marijuana Program, in the amount of five thousand dollars (\$5,000), shall be submitted with the proposal.

##### **B. BIDDER'S SIGNATURE FORM**

This form, found in the Appendix C, must be completed and signed by the bidder's authorized representative.

##### **C. TITLE PAGE**

The Title page shall include: 1) the RFP subject; 2) the name of the applicant; 3) the applicant's full address; 4) the applicant's telephone number; 5) the name and title of the designated contact person; and 6) bid opening date (**MARCH 21, 2014 at 11:00am**).

##### **D. TABLE OF CONTENTS**

The Table of Contents shall include a clear and complete identification of information presented by section and page number.

##### **E. CONFIDENTIAL INFORMATION**

Per Section §4920A Confidentiality of the Act, none of the proposal information will be subject to the Freedom of Information Act (FOIA). All portions of the proposal can be placed on a single CD for submission purposes.

§ 4920A. Confidentiality

*(a)The following information received and records kept by the Department for purposes of administering this chapter are confidential and exempt from the Delaware Freedom of Information Act [Chapter 100 of Title 29], and not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the State of Delaware to perform official duties pursuant to this chapter:*



*(2) Applications and renewals, their contents, and supporting information submitted by or on behalf of compassion centers and safety compliance facilities in compliance with this chapter, including their physical addressees.*

*(3) The individual names and other information identifying persons to whom the Department has issued registry identification cards.*

*(4) Any dispensing information required to be kept under § 4919A of this title or Department regulation shall identify cardholders and registered compassion centers by their registry identification numbers and not contain names or other personally identifying information.*

## **F. QUALIFICATIONS AND EXPERIENCE**

This section shall contain sufficient information to demonstrate the organization's legal status, knowledge, experience and staff expertise to carry out the establishment and maintenance of a pilot compassion center. A statement must be included that the vendor either has or certifies he/she will secure a Delaware Business License during the contract negotiation process.

### **1. Organizational Structure**

Describe the proposed team structure and internal controls to be used in the operation of the compassion center, including any subcontractors. Define how the company will establish lines of authority for personnel who might be involved in performance of this potential contract and relationships of this staff to other programs or functions within the company. This section should include at least the following information and documentation:

- a. proposed legal name of the compassion center;
- b. certificate and articles of incorporation (for corporations); certificate of partnership and partnership agreement (for partnerships); certificate of organization and operating agreement (for limited liability corporations);
- c. Evidence of the organization's not-for-profit status. This can be IRS certification of tax-exempt status, or other written materials allowing the Department to determine the compassion center's ability to comply with the not-for-profit mandate. This should also include a description of how the compassion center will operate on a not-for-profit basis; and
- d. Proposed operating bylaws

### **2. Agents of the Compassion Center and Organization**

The specific individuals, or agents, who will perform work on behalf of the compassion center, shall be identified by name and title along with explanation of the nature and extent of their involvement. This should include all board members, officers, owners, employees,

volunteers, or other person involved with the ownership or operation of the compassion center. Provide qualification information on the named agent, including the individuals' particular skills related to the medical use of marijuana, education, experience, significant accomplishments and any other pertinent information. These qualifications shall be presented in resumes or other formats.

If set up and operation of the compassion center will require hiring of one or more individuals who are not currently employed by the bidding organization, the proposal application shall provide detailed job descriptions, including required qualifications and experience.

If subcontractors are to be used, the proposal shall also contain similar information regarding each subcontractor.

At a minimum, the following information shall be included in this section:

- a. For each proposed agent, provide the name, address and date of birth;
- b. For each proposed agent, provide the report of criminal history background check;
- c. Any instances in which a business or not-for-profit that any of the prospective board members managed or served on the board was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;
- d. A list of all persons or business entities having five percent (5%) or more ownership in the compassion center, whether direct or indirect and whether the interest is in profits, land or building, including owners of any business entity which owns all or part of the land or building;
- e. A list of all persons or business entities having direct or indirect authority over the management or policies of the compassion center; and
- f. The identities of all creditors holding a security interest in the premises, if any.

3. Ability, capacity, skills and expertise of the organization

- a. Describe your organization's ability, capacity, skills and other expertise in product and industry knowledge, including but not limited to the following:
  - How marijuana or agricultural products are grown, cultivated, harvested, cured, processed, packaged, labeled and prepared for retail sale;

- Various types of marijuana strains and how they impact qualifying debilitating medical conditions, giving special attention to the conditions accepted by the Delaware Medical Marijuana Program;
  - Different forms in which to buy or sell marijuana (i.e. dried, concentrates, tinctures, etc.);
  - How marijuana should be packaged, labeled, transported, and sold at retail level;
  - How retail marijuana should be recalled and accounted for;
  - How marijuana should be destroyed if overproduced, contaminated, or recalled;
  - Any experience with the marijuana industry that shows the level of expertise of your company; and
  - Describe your company's ability, capacity, skills and expertise in product quality standards.
- b. Describe your company's ability, capacity, skills and/or expertise in product quality standards and testing, including but not limited to the following:
- Knowledge of the infrastructure required to test marijuana to ensure product quality, content, ingredients and consumer safety considerations;
  - Assisting DPH with establishing quality standards for testing marijuana; and
  - Provide a complete description of your company's proposed approach and methodology to be used in assisting the State of Delaware to develop a reputable protocol for Product Quality Standards and Testing as requested to determine TCH/CBD levels and/or ratios, mold or chemical contaminants, and Product strain.

## **G. LOCATION AND SECURITY OF COMPASSION CENTER**

This section should describe the details of the proposed location and facility of the compassion center, including all proposed security measures.

### **1. Location**

Include the following information regarding the proposed location for the compassion center and any other proposed location, if any, where marijuana will be securely cultivated, harvested, packaged, labeled, or otherwise prepared for distribution by the compassion center:

- a. If precise addresses are known
  - a. The proposed physical address or addresses;

- b. evidence of compliance with local zoning laws for each physical address;
  - c. evidence of compliance that the sites are not located within 1,000 feet of a property line of a preexisting public or private school; and
  - d. legally binding evidence of site control (e.g., deed, lease, option, etc.) sufficient to enable the applicant to have use and possession of the subject property for the intended purpose.
- b. If precise address(es) have not been determined
    - a. identify the general location where it would be sited;
    - b. any relevant information known about how site control will be obtained (e.g. purchased, leased, etc.); and
    - c. when the precise location would be established.

## 2. Facility description and proposed security

- a. Provide a description of enclosed locked facility that would be used in the cultivation of marijuana, including steps to ensure that the marijuana production, packaging, labeling, or distribution shall not be visible from the street or other public area.
- b. A proposed plan to implement proper and appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana. The proposed plan should demonstrate compliance with the mandates in the Scope of Services of this RFP, the Act and the regulations. This should include the proposed alarm system, video surveillance, and inventory controls.

## **H. BIDDER REFERENCES**

The names and phone numbers of at least three (3) organizations/agencies for whom the vendor carried out a similar project must be included. If no similar project has been conducted, others requiring comparable skills can be used.

Bidder shall list all contracts awarded to it or its predecessor firm(s) by the State of Delaware; during the last three years, by State Department, Division, Contact Person (with address/phone number), period of performance and amount. The Evaluation/Selection Review Committee will consider these additional references and may contact each of these sources. Information regarding bidder performance gathered from these sources may be included in the Committee's deliberations and factored in the final scoring of the bid. Failure to list any contract as required by this paragraph may be grounds for immediate rejection of the bid.

## **I. PROPOSED METHODOLOGY AND WORK PLAN**

This section shall describe in detail the approach that will be taken to carry out the activities described in the Scope of Services section of this RFP. Specific completion dates for various tasks must be shown. The work plan shall outline specific objectives, activities and strategies, and resources.

### **1. Products and Services provided**

This section shall contain a list of proposed products and services that will be offered by the compassion center to registered and impaneled patients should the proposal be selected and awarded the registration certificate.

This should contain details of the varieties of marijuana that will be offered and the quantities of each. It should also contain details of paraphernalia used to administer the drug that will be available to patients.

### **2. Packaging**

This section shall contain an example of the design and security features of the containers proposed for use both in the retail store as well as the packaging for dispensed marijuana. This section should demonstrate compliance with the requirements for Medical Marijuana packaging as contained in the Act, the Regulations, and this RFP.

### **3. Operations**

This section shall contain a draft Operations Manual demonstrating compliance with the Scope of Services in this RFP, the Act, and the Regulations. Should the proposal be selected, the Operations Manual shall be finalized, implemented, and maintained on the premises. It shall also be supplied to the Department for review.

### **4. Testing Plan**

As indicated in the Scope of Services.

### **5. Growing strategy**

As indicated in the Scope of Services.

### **6. Outreach Plans**

As indicated in the Scope of Services.

### **7. Required Training**

This section should outline the proposed training curriculum for the agents of the compassion center, as well as the proposed outreach education for the patients and caregivers.

## 8. Pricing and payment

This section should include proposed pricing schedules for the retail medical marijuana products and paraphernalia as well as for patient and caregiver education and outreach services. It should include related information, such as a sliding scale, that may be used to provide access to affordable medical marijuana by impaneled patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance.

This section should also include a financial policy plans including payment schedules that may be offered to patients, examples of receipt-of-payment forms, and a list of the forms of payment the compassion center will accept (cash, checks, credit/debit).

## 9. Records Retention Information

This section should contain information about the secure storage of records and the amount of time required to produce a file if requested by the Department. It should provide a description of the location and security of on-site storage of records, both electronic and paper. This is also the section where an address and company name should be provided for where the offsite retention of records will take place.

## 10. Form Samples

This section should include samples of proposed forms to be used in the operation of the compassion center. For example, a compassion center may want to have liability forms or patient consent forms for the purpose of agreement to hold harmless the compassion center or organization in the smoking of a product known to be a carcinogen. The organization may want to have employees sign an awareness of confidentiality and voluntary nature of services statement. Or the compassion center may have a form or list of acceptable items of proof for a patient requesting a sliding scale price for services rendered or product sold.

## **J. CERTIFICATION AND STATEMENT OF COMPLIANCE**

The bidder must include statements that the applicant agency complies with all Federal and Delaware laws and regulations pertaining to equal opportunity and affirmative action. In addition, compliance must be assured in regard to Federal and Delaware laws and regulations relating to confidentiality and individual and family privacy in health care delivery and in the collection and reporting of data. (See Appendices D & E)

## **K. STANDARD CONTRACT**

### **1. Contract Boilerplate**

Appendix F is a copy of the standard boilerplate contract for the State of Delaware, Delaware Health and Social Services, Division of Public Health. This boilerplate will be the one used for any contract resulting from this Request for Proposal. If a bidder has an objection to any contract provisions or the RFP and its procurement provisions, objections shall be stated in the Transmittal Letter of the bidder's proposal. Execution of the contract is NOT required with proposal submission. The contract is provided as a courtesy for review by an interested bidder's legal group.

### **2. Potential Additions to the Boilerplate**

The lesser sanctions in the contract are not all inclusive and may be expanded for the contract resulting from this RFP. Other details related to bid-specific requirements, or other pilot compassion center specific details, will be included in the selected bidder's contract. The appendices of the contract may include, but are not limited to, the following documents:

- a. a schedule of required record retention,
- b. Frequently Asked Questions information page to be given to patients when marijuana is dispersed,
- c. the Registry Card Application for the Compassion Center Agents, and
- d. Details for the required Annual Report.

### **3. Registration Certificate to Operate**

The initial registration certificate will be issued to the selected bidder for a period of two years. Registration certificates may be renewed every two years thereafter. The registered compassion center may submit a renewal application beginning 90 days prior to the expiration of its registration certificate. The Department shall grant a renewal application within 30 days of its submission if the following conditions are all satisfied:

- a. The registered compassion center submits a renewal application and the required renewal fee, which shall be refunded within 30 days if the renewal application is rejected;
- b. The Department has not suspended the registered compassion center registration certificate for violations of the Medical Marijuana Act or Medical Marijuana Code;
- c. The inspections authorized by §4919A(u) and the annual report, provided in response to §4922A, do not raise serious concerns

- about the continued operation of the registered compassion center applying for renewal; and
- d. The applicant still complies with the qualifications required in §4914A and §4915A.

## **V. BUDGET**

A list of financial obligations and fiscal operating principles that will be required of the selected vendor is included in the Scope of Services section of this RFP. In addition to demonstrating availability of sufficient capital to establish and maintain the compassion center, the proposal should also include a financial business plan that incorporates the listed obligations and principles. Sources of funding shall be identified as described in the records section of this RFP.

Suggested formats for a line item budget are included in Appendices A & B of this RFP. Details of specific equipment required should be included in the budget worksheet, including price of purchase or lease and how it will be used. Applicants shall also describe any factors that may have an impact on the projected budget.

A proposed plan for providing medical grade marijuana to registered, qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance should be placed in this section as well.

## **VI. GENERAL INSTRUCTIONS FOR SUBMISSION OF PROPOSALS**

### **A. NUMBER OF COPIES REQUIRED**

Two (2) original CDs (Each Labeled as "Original") and six (6) CD copies (Each labeled as "Copy"). In addition, any required confidential financial or audit information relating to the company and not specifically to the proposal may be copied separately to one set of up to three (3) additional CDs (Each labeled "Corporate Confidential Information"). All CD files shall be in PDF and Microsoft Word formats. Additional file formats (i.e. .xls, .mpp) may be required as requested.

**It is the responsibility of the bidder to ensure all submitted CDs are machine readable, virus free and are otherwise error-free. CDs (or their component files) not in this condition may be cause for the vendor to be disqualified from bidding.**

Bidders will no longer be required to make hard copies of their proposals **with the exception that** one copy of a Cover Letter along with one copy each **of the completed and signed Bidders Signature Form (Appendix C), Certification Sheet (Appendix D), and Statements of Compliance Form**



**(Appendix E) be submitted in hardcopy with original signature with their CDs. Please also include PDF versions of these forms on your CDs.**

The cover letter should include: bidder recognition of all addenda posted on the RFP website (<http://bids.delaware.gov>) relative to this RFP, a statement confirming the proposal remains effective through the date shown in **(D)** below, a statement the bidder has or agrees to obtain a Delaware business license if awarded a contract, a statement confirming pricing was arrived at without collusion.

The responses to this RFP shall be submitted to:

Procurement Administrator  
Division of Management Services  
Delaware Health and Social Services  
Main Administration Building, Sullivan Street  
Second Floor, Room 257  
1901 North duPont Highway  
New Castle, DE 19720

**B. CLOSING DATE**

All responses must be received no later than **MARCH 21, 2014 at 11:00am**. Later submission will be cause for disqualification.

**C. OPENING OF PROPOSALS**

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the State of Delaware personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

**D. PROPOSAL EXPIRATION DATE**

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through the two year contract period. The State of Delaware reserves the right to ask for an extension of time if needed.

**E. ACKNOWLEDGEMENT OF UNDERSTANDING OF TERMS**

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

#### **F. REALISTIC PROPOSALS**

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

#### **G. NON-CONFORMING PROPOSALS**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

#### **H. NOTIFICATION OF ACCEPTANCE**

Notification of the Department's intent to enter into contract negotiations will be made in writing to all bidders.

#### **I. QUESTIONS**

All questions concerning this Request for Proposal must reference the pertinent RFP section(s) and page number(s). Questions must be in writing and can be either mailed, faxed, or emailed to:

**Paul Hyland**  
**Public Health Treatment Program Administrator**  
**Email: [Paul.Hyland@state.de.us](mailto:Paul.Hyland@state.de.us)**  
**Fax: 302-739-3071**

Deadline for submission of all questions is **JANUARY 17, 2014**. All questions and answers will be posted on the RFP website at <http://bids.delaware.gov> no later than **FEBRUARY 14, 2014**. Please include your fax number and/or your email address with your request.

#### **J. AMENDMENTS TO PROPOSALS**

Amendments to proposals will not be accepted after the deadline for proposal submission has passed. The State reserves the right at any time to request clarification and/or further technical information from any or all applicants submitting proposals.

#### **K. PROPOSALS BECOME STATE PROPERTY**

All proposals become the property of the State of Delaware and will not be returned to the bidders. The State will not divulge any information

identified as confidential at the time of proposal submission provided the information resides solely on the CD (s) marked confidential.

**L. NON-INTERFERENCE CLAUSE**

The awarding of this contract and all aspects of the awarded bidders contractual obligations, projects, literature, books, manuals, and any other relevant materials and work will automatically become property of the State of Delaware. The awarded bidder will not in any manner interfere or retain any information in relationship to the contractual obligations of said contract, at the time of the award or in the future tense.

**M. INVESTIGATION OF BIDDER'S QUALIFICATIONS**

Delaware Health and Social Services may make such investigation as it deems necessary to determine the ability of the bidder to furnish the required services, and the bidder shall furnish such data as the Department may request for this purpose.

**N. RFP AND FINAL CONTRACT**

The contents of the RFP will be incorporated into the final contract and will become binding upon the successful bidder. If the bidder is unwilling to comply with any of the requirements, terms, and conditions of the RFP, objections must be clearly stated in the proposal. Objections will be considered and may be subject to negotiation at the discretion of the state.

**O. PROPOSAL AND FINAL CONTRACT**

The contents of each proposal will be considered binding on the bidder and subject to subsequent contract confirmation if selected. The contents of the successful proposal will be included by reference in the resulting contract.

All terms, and conditions contained in the proposal will remain fixed and valid for the length of the resulting contract.

**P. COST OF PROPOSAL PREPARATION**

All costs for proposal preparation will be borne by the bidder.

**Q. PROPOSED TIMETABLE**

The Department's proposed schedule for reviewing proposals is outlined as follows:

<b><u>Activity</u></b>	<b><u>Date</u></b>
RFP Advertisement	December 26, 2013
Questions Due	January 17, 2014
Mandatory Pre-bid Meeting	January 31, 2014 10:00am
Answers to Questions	February 24, 2014
Bid Opening	March 21, 2014 11:00am
Selection Process Begins	March 24, 2014
Vendor Selection (tentative)	April 28, 2014
Project Begins	June 30, 2014

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#### **R. CONFIDENTIALITY AND DEBRIEFING**

The Procurement Administrator shall examine the proposal to determine the validity of any written requests for nondisclosure of trade secrets and other proprietary data identified in conjunction with the Attorney General's Office. After award of the contract, all responses, documents, and materials submitted by the offer or pertaining to this RFP will be considered public information and will be made available for inspection, unless otherwise determined by the Director of Purchasing, under the laws of the State of Delaware. All data, documentation, and innovations developed as a result of these contractual services shall become the property of the State of Delaware. Based upon the public nature of these Professional Services (RFP) Proposals a bidder must inform the state in writing, of the exact materials in the offer which CANNOT be made a part of the public record in accordance with Delaware's Freedom of Information Act, Title 29, Chapter 100 of the Delaware Code.

If a bidder wishes to request a debriefing, he must submit a formal letter to the Procurement Administrator, Herman M. Holloway Campus, Delaware Health and Social Services Main Building, 2nd Floor, Room 257, 1901 N. duPont Highway, New Castle, Delaware 19720 within 10 days after receipt of Notice of Award. The letter must specify reasons for the request.

#### **VII. SELECTION PROCESS**

All proposals submitted in response to this RFP will be reviewed by an evaluation team composed of representatives of the Division of Public

Health, Delaware Health and Social Services, and others as may be deemed appropriate by the Department. Applications for compassion center registration certificates will be evaluated using an impartial and numerically scored competitive bidding process. Each proposal will be independently reviewed and rated against review criteria. Selection will be based upon the recommendations of the review team. The registration considerations shall consist of the following criteria.

#### **A. PROPOSAL EVALUATION CRITERIA**

A maximum of 100 points is possible.

<b><u>Category</u></b>	<b><u>Weight</u></b>
<b>1) Meets mandatory RFP provisions</b> <b>a.</b> CD's properly submitted <b>b.</b> Forms properly submitted	<b>Pass/Fail</b>
<b>2) Meets all state legislative mandates</b> <b>a.</b> Submission of all Department required materials, including application fee <b>b.</b> Documentation of not-for-profit status <b>c.</b> Proposed location is demonstrated to be in accordance with local zoning regulations and proper distance from schools <b>d.</b> Satisfaction of the minimal Medical Marijuana Regulations for security, oversight, and record keeping <b>e.</b> Proposed plans meet all requirements of §4919A of the Act <b>f.</b> None of the prospective principal officers or board members <ul style="list-style-type: none"> <li>• have been convicted of an excluded felony offense nor have been convicted of a misdemeanor drug offense, as provided in Title 16, within 5 years from the date of application that is not excluded by §4902(g)(2)(b)</li> <li>• have served as principal officer or board member for a registered compassion center that has had its registration certificate revoked</li> <li>• are younger than 21 years of age</li> </ul>	<b>Pass/Fail</b>
<b>3) Stability, Qualifications, and Experience of vendor</b> <b>a.</b> The principal officer and board members' character and relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, analytical testing, or marijuana	<b>30 pts</b>

<b><u>Category</u></b>	<b><u>Weight</u></b>
<p>cultivation, preparation, and testing and their experience running businesses or not-for-profits</p> <p><b>b.</b> By laws</p> <p><b>c.</b> Administrative Oversight</p> <p><b>d.</b> Past experience in successfully operating quality programs of a similar type and with a similar population</p> <p><b>e.</b> Quality Assurance Program details</p> <p><b>f.</b> available resources, including demonstration of sufficient capital to establish and maintain the compassion center according to this RFP, the Act, and the Regulations</p> <p><b>g.</b> ability to work well in a larger program of multiple compassion centers</p>	
<p><b>4) Responses to Scope of Services, Section II. A – E.</b></p> <p><b>a.</b> proposed plan for operations and services</p> <p><b>b.</b> proposed plan for packaging, labeling, and dispensing marijuana</p> <p><b>c.</b> applicant's ability to grow marijuana without the use of pesticides</p> <p><b>d.</b> proposed plan for staffing and training</p> <p><b>e.</b> demonstrated ability to provide adequate supply and variety of medical marijuana and medical marijuana based products to the registered patients in the state, including availability of needed paraphernalia to administer the drug</p> <p><b>f.</b> proposed plan for making medical marijuana available on an affordable basis to registered qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance</p> <p><b>g.</b> Product line diversity (strain, delivery system, potency)</p> <p><b>h.</b> Proposed plan for establishment and maintenance of records as required, including identification of long term records retention facility</p>	<b>35 pts</b>

<b><u>Category</u></b>	<b><u>Weight</u></b>
<b>5) Safety, Security and Location Suitability</b> <ul style="list-style-type: none"> <li>a. The suitability of the proposed location or locations, including but not limited to compliance with any local zoning laws, distance from existing schools, and the geographic convenience to patients from throughout the state of Delaware to compassion centers if the applicant were approved</li> <li>b. Sufficiency of applicant's plans for safety, security, and prevention of diversion including inventory controls and security devices employed</li> <li>c. Proposed plan for safe and accurate packaging and labeling of medical marijuana, including all items listed in scope of services</li> <li>d. Proposed plan for testing medical marijuana for contaminants and potency of active ingredients</li> <li>e. Proposed plan for secure and safe record keeping of agents and product tracking</li> </ul>	<b>35 pts</b>
<b>Total Possible Points    100 pts</b>	

Upon selection of a vendor, a Division of Public Health representative will enter into negotiations with the bidder to establish a contract.

#### **B. CONSULTANTS AND LEGAL COUNSEL**

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact consultant or legal counsel on any matter related to the RFP.

#### **C. EXCLUSIONS**

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;

Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;

Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;

Has violated contract provisions such as:

Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;

Has violated ethical standards set out in law or regulation; and

Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

#### **D. PROJECT COSTS AND PROPOSED SCOPE OF SERVICE**

The Department reserves the right to award this project to a bidder other than the one with the lowest cost or to decide not to fund this project at all. Cost will be balanced against the score received by each bidder in the rating process. The State of Delaware reserves the right to reject, as technically unqualified, proposals that are unrealistically low if, in the judgment of the evaluation team, a lack of sufficient budgeted resources would jeopardize project success.



**APPENDIX A:  
BUDGET SUMMARY SHEET**

# Budget Summary Sheet

Categories	Amounts
<b>Staff Salaries</b>	

<b>Fringe Benefits</b>	
------------------------	--

## Travel / Training

Mileage (Rate\$0.00 X 0000 miles)	
Training	
Other (specify)	

## Contractual

Rent	
Electricity	
Heat	
Communications	
Other Utilities	
Printing / Advertising	
Postage	
Insurance	
Repairs	
Other (specify)	

## Supplies

Office	
Janitorial	
Medical	
Program	
Other (specify)	

## Equipment / Other Direct Costs

Other (specify)	
-----------------	--

## Indirect Costs (12%)

Other (specify)	
-----------------	--

## TOTAL BUDGET

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**APPENDIX B:  
BUDGET WORKSHEET**

# Budget Worksheet

(can attach additional sheets if necessary)

Category / Description	Amount
<u>Salary / Wages</u>	
List each position title: Directors, Supervisors, Healthcare Workers, Nutritionists, Drivers, Case Managers, Janitors, Instructors, Coordinators, etc	
-	-
Total: Salary / Wages	

<u>Fringe Benefits</u>	
Proportionate for above labor including Social Security, unemployment compensation, life insurance, worker's compensation, health insurance, pension, etc. that will be paid by the Agency	
Total: Fringe Benefits	

<u>Travel / Training</u>	
Include any programs staff are required to attend. Mileage reimbursement shall be no more than the IRS allowable amount. Subscriptions and association dues may be included in this category	
Total: Travel / Training	

## Budget Worksheet page 2

Category / Description	Amount
<u>Contractual</u>	
Include the portions of rent, utilities, telephone, internet, Insurance, maintenance, etc that will be paid by the Agency	
Total: Contractual	

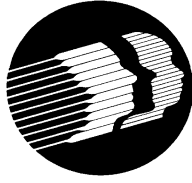
<u>Supplies</u>	
Include office supplies, supplies for routine building maintenance (janitorial), medical supplies, program supplies, and other related expenses	
Total: Supplies	

<u>Other Equipment</u>	
Specify Items or lots costing \$1000.00 or more and having a useful life of more than one year	
Total: Other Equipment	

Budget Worksheet page 3

<u>Indirect Costs (no more than 12%)</u> Identify any line items contributing to total costs not delineated in the above sections	
Total: Indirect Costs	

**APPENDIX C:  
BIDDERS SIGNATURE FORM**



**DELAWARE HEALTH AND SOCIAL SERVICES  
REQUEST FOR PROPOSAL**

**BIDDERS SIGNATURE FORM**

NAME OF BIDDER: \_\_\_\_\_  
SIGNATURE OF AUTHORIZED PERSON: \_\_\_\_\_  
TYPE IN NAME OF AUTHORIZED PERSON: \_\_\_\_\_  
TITLE OF AUTHORIZED PERSON: \_\_\_\_\_  
STREET NAME AND NUMBER: \_\_\_\_\_  
CITY, STATE, & ZIP CODE: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
DATE: \_\_\_\_\_  
BIDDER'S FEDERAL EMPLOYERS IDENTIFICATION NUMBER: \_\_\_\_\_

**THE FOLLOWING MUST BE COMPLETED BY THE VENDOR:**

AS CONSIDERATION FOR THE AWARD AND EXECUTION BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES OF THIS CONTRACT, THE (COMPANY NAME) \_\_\_\_\_  
HEREBY GRANTS, CONVEYS, SELLS, ASSIGNS, AND TRANSFERS TO THE STATE OF DELAWARE ALL OF ITS RIGHTS, TITLE AND INTEREST IN AND TO ALL KNOWN OR UNKNOWN CAUSES OF ACTION IT PRESENTLY HAS OR MAY NOW HEREAFTER ACQUIRE UNDER THE ANTITRUST LAWS OF THE UNITED STATES AND THE STATE OF DELAWARE, RELATING THE PARTICULAR GOODS OR SERVICES PURCHASED OR ACQUIRED BY THE DELAWARE HEALTH AND SOCIAL SERVICES DEPARTMENT, PURSUANT TO THIS CONTRACT.



**APPENDIX D:  
CERTIFICATION SHEET**



**DELAWARE HEALTH AND SOCIAL SERVICES  
REQUEST FOR PROPOSAL**

**CERTIFICATION SHEET**

As the official representative for the proposer, I certify on behalf of the agency that:

- a. They are a regular dealer in the services being procured.
- b. They have the ability to fulfill all requirements specified for development within this RFP.
- c. They have independently determined their prices.
- d. They are accurately representing their type of business and affiliations.
- e. They will secure a Delaware Business License.
- f. They have acknowledged that no contingency fees have been paid to obtain award of this contract.
- g. The Prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other contractor or with any competitor;
- h. Unless otherwise required by Law, the prices which have been quoted in this offer have not been knowingly disclosed by the contractor and prior to the award in the case of a negotiated procurement, directly or indirectly to any other contractor or to any competitor; and
- i. No attempt has been made or will be made by the contractor in part to other persons or firm to submit or not to submit an offer for the purpose of restricting competition.
- j. They have not employed or retained any company or person (other than a full-time bona fide employee working solely for the contractor) to solicit or

secure this contract, and they have not paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the contractor) any fee, commission percentage or brokerage fee contingent upon or resulting from the award of this contract.

- k. They (check one) operate \_\_\_an individual; \_\_\_a Partnership \_\_\_a non-profit (501 C-3) organization; \_\_\_a not-for-profit organization; or \_\_\_for profit corporation, incorporated under the laws of the State of \_\_\_\_\_.
- l. The referenced offerer has neither directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to Delaware Health and Social Services.
- m. The referenced bidder agrees that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this invitation to bid including all Specifications and special provisions.
- n. They (check one): \_\_\_\_\_are; \_\_\_\_\_are not owned or controlled by a parent company. If owned or controlled by a parent company, enter name and address of parent company:

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**Violations and Penalties:**

Each contract entered into by an agency for professional services shall contain a prohibition against contingency fees as follows:

1. The firm offering professional services swears that it has not employed or retained any company or person working primarily for the firm offering professional services, to solicit or secure this agreement by improperly influencing the agency or any of its employees in the professional service procurement process.
2. The firm offering the professional services has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working primarily for the firm offering professional services, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this agreement; and

3. For the violation of this provision, the agency shall have the right to terminate the agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

The following conditions are understood and agreed to:

- a. No charges, other than those specified in the cost proposal, are to be levied upon the State as a result of a contract.
- b. The State will have exclusive ownership of all products of this contract unless mutually agreed to in writing at the time a binding contract is executed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature & Title of Official Representative

\_\_\_\_\_  
Type Name of Official Representative

**APPENDIX E:  
STATEMENTS OF COMPLIANCE FORM**



**DELAWARE HEALTH AND SOCIAL SERVICES  
REQUEST FOR PROPOSAL**

**STATEMENTS OF COMPLIANCE FORM**

As the official representative for the contractor, I certify on behalf of the agency that \_\_\_\_\_ (Company Name) will comply with all Federal and Delaware laws and regulations pertaining to equal employment opportunity and affirmative action. In addition, compliance will be assured in regard to Federal and Delaware laws and regulations relating to confidentiality and individual and family privacy in the collection and reporting of data.

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX F:  
CONTRACT BOILERPLATE**



**DELAWARE HEALTH  
AND SOCIAL SERVICES**

**DPH CONTRACT # \_\_\_\_\_  
BETWEEN  
THE DIVISION OF PUBLIC HEALTH,  
DELAWARE DEPARTMENT OF HEALTH & SOCIAL SERVICES,  
AND  
[Contractor]  
FOR  
[TYPE OF SERVICE]**

**A. Introduction**

1. This contract is entered into between the Delaware Department of Health and Social Services (the Department), Division of \_\_\_\_\_ (Division) and \_\_\_\_\_ (the Contractor).
2. The Contract shall commence on \_\_\_\_\_ and terminate on \_\_\_\_\_ unless specifically extended by an amendment, signed by all parties to the Contract. Time is of the essence. (Effective contract start date is subject to the provisions of Paragraph C. 1. of this Agreement.)

**B. Administrative Requirements**

1. Contractor recognizes that it is operating as an independent Contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Contractor's negligent performance under this Contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Contractor in their negligent performance under this Contract.
2. The Contractor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The Contractor is an independent contractor and is not an employee of the State.
3. During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:

a) Comprehensive General Liability                      \$1,000,000  
and



	b) Medical/Professional Liability	\$1,000,000/ \$3,000,000
or	c) Misc. Errors and Omissions	\$1,000,000/\$3,000,000
or	d) Product Liability	\$1,000,000/\$3,000,000

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

**5.**

e) Automotive Liability (Bodily Injury)	\$100,000/\$300,000
f) Automotive Property Damage (to others)	\$ 25,000

4. Notwithstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the Contractor's negligent performance under this Contract, and any other liability for damages for which the Contractor is required to indemnify the State, the Department and the Division under any provision of this Contract.
5. The policies required under Paragraph B. 3. must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.
6. The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in Paragraph A. 2.
7. The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.
8. The Contractor agrees to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Contract, to assure the quality of services provided under this Contract. The Contractor shall immediately notify

the Department in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, the Contractor understands that such action may be grounds for termination of the Contract.

a) If a contractor is under the regulation of any Department entity and has been assessed Civil Money Penalties (CMPs), or a court has entered a civil judgment against a Contractor or vendor in a case in which DHSS or its agencies was a party, the Contractor or vendor is excluded from other DHSS contractual opportunities or is at risk of contract termination in whole, or in part, until penalties are paid in full or the entity is participating in a corrective action plan approved by the Department.

A corrective action plan must be submitted in writing and must respond to findings of non-compliance with Federal, State, and Department requirements. Corrective action plans must include timeframes for correcting deficiencies and must be approved, in writing, by the Department.

The Contractor will be afforded a thirty (30) day period to cure non-compliance with Section 8(a). If, in the sole judgment of the Department, the Contractor has not made satisfactory progress in curing the infraction(s) within the aforementioned thirty (30) days, then the Department may immediately terminate any and/or all active contracts.

9. Contractor agrees to comply with all the terms, requirements and provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and any other federal, state, local or any other anti discriminatory act, law, statute, regulation or policy along with all amendments and revision of these laws, in the performance of this Contract and will not discriminate against any applicant or employee or service recipient because of race, creed, religion, age, sex, color, national or ethnic origin, disability, status as a person in a marriage versus a person in a civil union, veteran's status or any other unlawful discriminatory basis or criteria.
10. The Contractor agrees to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population served under this Contract by race, color, national origin or disability.
11. This Contract may be terminated in whole or in part by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance, provided that, in its sole discretion, the Department may impose sanctions in lieu of termination as set forth in Appendix A attached to and incorporated into this Contract.

## **6.**

This Contract may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Contract through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

This Contract may be terminated in whole or in part by Delaware for its convenience, but only after Contractor is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with Delaware prior to termination.

If termination for default is effected by Delaware, Delaware will pay Contractor that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to Contractor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Contractor's default.
- c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Contractor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Contractor assigned to the performance of the Contract, notwithstanding any provisions in this document to the contrary.

If after termination for failure of Contractor to fulfill contractual obligations it is determined that Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

The rights and remedies of Delaware and Contractor provided in this section are in addition to any other rights and remedies provided by law or under this Contract.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, models, maps, photographs, and reports or other material prepared by Contractor under this contract shall, at the option of the Department, become the property of the Department.

In the event of termination, the Contractor, upon receiving the termination notice, shall immediately cease work and refrain from purchasing contract related items unless otherwise instructed by the Department.

The Contractor shall be entitled to receive reasonable compensation as determined by the Department in its sole discretion for any satisfactory work completed on such documents

and other materials that are usable to the Department. Whether such work is satisfactory and usable is determined by the Department in its sole discretion.

Should the Contractor cease conducting business, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets, or shall avail itself of, or become subject to any proceeding under the

Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors, then at the option of the Department, this Contract shall terminate and be of no further force and effect. Contractor shall notify the Department immediately of such events.

12. Delaware may suspend performance by Contractor under this Contract for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Contractor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Contractor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Contractor shall not perform further work under this Contract after the effective date of suspension. Contractor shall not perform further work under this Contract after the effective date of suspension until receipt of written notice from Delaware to resume performance.

In the event Delaware suspends performance by Contractor for any cause other than the error or omission of the Contractor, for an aggregate period in excess of 30 days, Contractor shall be entitled to an equitable adjustment of the compensation payable to Contractor under this Contract to reimburse for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

13. Any notice required or permitted under this Contract shall be effective upon receipt and may be hand delivered with receipt requested or by registered or certified mail with return receipt requested to the addresses listed below. Either Party may change its address for notices and official formal correspondence upon five (5) days written notice to the other.

To the Division at:

Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Attn: Support Services Section

To the Contractor at:

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14. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Contract, the remainder of the Contract will remain unaffected.
  15. This Contract shall not be altered, changed, modified or amended except by written consent of all Parties to the Contract.
  16. The Contractor shall not enter into any subcontract for any portion of the services covered by this Contract without obtaining prior written approval of the Department. Any such subcontract shall be subject to all the conditions and provisions of this Contract. The approval requirements of this paragraph do not extend to the purchase of articles, supplies, equipment, rentals, leases and other day-to-day operational expenses in support of staff or facilities providing the services covered by this Contract.
  17. The term "Contract Documents" shall mean the documents listed in this Section. Each of the Contract Documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to describe and provide for a complete agreement. This entire Contract between the Contractor and the Department is composed of these several pages and the attached Appendices. In the event of any conflict among the Contract Documents, the order of precedence shall be as set forth below:

Standard Department Contract (pages 1 – 10 of this contract)

Appendix A – Divisional Requirements

Appendix B – Service and Budget Description

Appendix C – Name of Appendix, if necessary

Appendix D – Name of Appendix, if necessary

18. This Contract shall be interpreted and any disputes resolved according to the Laws of the State of Delaware. Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Department and Contractor arising out of or relating to this Contract or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State of Delaware.
19. In the event Contractor is successful in an action under the antitrust laws of the United States and/or the State of Delaware against a vendor, supplier, subcontractor, or other party who provides particular goods or services to the Contractor that impact the budget for this Contract, Contractor agrees to reimburse the State of Delaware, Department of Health and Social Services for the pro-rata portion of the damages awarded that are attributable to the goods or services used by the Contractor to fulfill the requirements of this Contract. In the event Contractor refuses or neglects after reasonable written notice

by the Department to bring such antitrust action, Contractor shall be deemed to have assigned such action to the Department.

20. Contractor covenants that it presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the performance of this Contract. Contractor further covenants that in the performance of this contract, it shall not employ any person having such interest.
21. Contractor covenants that it has not employed or retained any company or person who is working primarily for the Contractor, to solicit or secure this agreement, by improperly influencing the Department or any of its employees in any professional procurement process; and, the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the violation of this provision, the Department shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
22. The Department shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract. Contractor shall have no right to copyright any material produced in whole or in part under this Contract. Upon the request of the Department, the Contractor shall execute additional documents as are required to assure the transfer of such copyrights to the Department.

If the use of any services or deliverables is prohibited by court action based on a U.S. patent or copyright infringement claim, Contractor shall, at its own expense, buy for the Department the right to continue using the services or deliverables or modify or replace the product with no material loss in use, at the option of the Department.

23. Contractor agrees that no information obtained pursuant to this Contract may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the Contractor's obligations under this Contract.
24. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by authorized representatives of all parties and attached to the original Contract.
25. If the amount of this contract listed in Paragraph C2 is over \$25,000, the Contractor, by their signature in Section E, is representing that the Firm and/or its Principals, along with its subcontractors and assignees under this agreement, are not currently subject to either

suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

C. Financial Requirements

1. The rights and obligations of each Party to this Contract are not effective and no Party is bound by the terms of this contract unless, and until, a validly executed Purchase Order is approved by the Secretary of Finance and received by Contractor, *if required by the State of Delaware Budget and Accounting Manual*, and all policies and procedures of the Department of Finance have been met. The obligations of the Department under this Contract are expressly limited to the amount of any approved Purchase Order. The State will not be liable for expenditures made or services delivered prior to Contractor's receipt of the Purchase Order.
2. Total payments under this Contract shall not exceed \$ \_\_\_\_\_ in accordance with the budget presented in Appendix \_\_\_\_\_. Payment will be made upon receipt of an itemized invoice from the Contractor in accordance with the payment schedule, if any. The contractor or vendor must accept full payment by procurement (credit) card and or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions. Contractor is responsible for costs incurred in excess of the total cost of this Contract and the Department is not responsible for such costs.
3. The Contractor is solely responsible for the payment of all amounts due to all subcontractors and suppliers of goods, materials or services which may have been acquired by or provided to the Contractor in the performance of this contract. The Department is not responsible for the payment of such subcontractors or suppliers.
4. The Contractor shall not assign the Contract or any portion thereof without prior written approval of the Department and subject to such conditions and revisions as the Department may deem necessary. No such approval by the Department of any assignment shall be deemed to provide for the incurrence of any obligations of the Department in addition to the total agreed upon price of the Contract.
5. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under this Contract in accordance with generally accepted accounting principles and practices. Contractor shall also maintain the financial information and data used by Contractor in the preparation of support of its bid or proposal. Contractor shall retain this information for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Department shall have access to such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.
6. The Contractor agrees that any submission by or on behalf of the Contractor of any claim for payment by the Department shall constitute certification by the Contractor that the

services or items for which payment is claimed were actually rendered by the Contractor or its agents, and that all information submitted in support of the claims is true, accurate, and complete.

7. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the Department for disallowances shall be drawn from the Contractor's own resources and not charged to Contract costs or cost pools indirectly charging Contract costs.
8. When the Department desires any addition or deletion to the deliverables or a change in the services to be provided under this Contract, it shall so notify the Contractor. The Department will develop a Contract Amendment authorizing said change. The Amendment shall state whether the change shall cause an alteration in the price or time required by the Contractor for any aspect of its performance under the Contract. Pricing of changes shall be consistent with those prices or costs established within this Contract. Such amendment shall not be effective until executed by all Parties pursuant to Paragraph B.14.

D. Miscellaneous Requirements

1. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 46, (PM # 46, effective 3/11/05), and divisional procedures regarding the reporting and investigation of suspected abuse, neglect, mistreatment, misappropriation of property and significant injury of residents/clients receiving services, including providing testimony at any administrative proceedings arising from such investigations. The policy and procedures are included as Appendix \_\_\_\_ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the position(s) responsible for the PM46 process in the provider agency. Documentation of staff training on PM46 must be maintained by the Contractor.
2. The Contractor, including its parent company and its subsidiaries, and any subcontractor, including its parent company and subsidiaries, agree to comply with the provisions of 29 Del. Code, Chapter 58: "Laws Regulating the Conduct of Officers and Employees of the State," and in particular with Section 5805 (d): "Post Employment Restrictions."
3. *When required by Law*, Contractor shall conduct child abuse and adult abuse registry checks and obtain service letters in accordance with 19 Del. Code Section 708; and 11 Del. Code, Sections 8563 and 8564. Contractor shall not employ individuals with adverse registry findings in the performance of this contract.
4. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 40, and divisional procedures regarding conducting criminal background checks and handling adverse findings of the criminal background checks. This policy and procedure are included as Appendix \_\_\_\_ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and



ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the title of the position(s) responsible for the PM40 process in the contractor's agency.

5. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 36 (PM #36, effective 9/24/2008), and divisional procedures regarding minimal requirements of contractors who are engaging in a contractual agreement to develop community based residential arrangements for those individuals served by Divisions within DHSS. This policy and procedure are included as Appendix n/a to this Contract. It is understood that adherence to this policy includes individuals/entities that enter into a contractual arrangement (*contractors*) with the DHSS/Division to develop a community based residential home(s) and apartment(s). Contractors shall be responsible for their subcontractors' adherence with this policy and related protocol(s) established by the applicable Division.
6. All Department campuses are tobacco-free. Contractors, their employees and sub-contractors are prohibited from using any tobacco products while on Department property. This prohibition extends to personal vehicles parked in Department parking lots.

Remainder of this page intentionally left blank.

E. Authorized Signatures:

For the Contractor:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

For the Department:

\_\_\_\_\_  
Rita M. Landgraf  
Secretary

\_\_\_\_\_  
Date

For the Division:

\_\_\_\_\_  
Karyl T. Rattay, MD, MS  
Director

\_\_\_\_\_  
Date

## **APPENDIX A (Of Contract Boileplate)**

### **DIVISION OF PUBLIC HEALTH REQUIREMENTS**

1. **Lesser Sanctions** - The Division reserves the right to reduce the number of people a Contractor currently serves, restrict the number of referrals a Contractor may receive, or rescind authorization to operate one or more service sites (e.g., neighborhood home, apartment) or any combination of such measures as sanctions for documented unsatisfactory contract performance as determined by the Division. The Division may impose such sanctions for a period of between 30 to 365 days, with the right to renew the sanctions at the Division's sole discretion.
2. Funds received and expended under the contract must be recorded so as to permit the Division to audit and account for all contract expenditures in conformity with the terms, conditions, and provisions of this contract, and with all pertinent federal and state laws and regulations. The Division retains the right to approve this accounting system.
3. The Contractor shall recognize that no extra contractual services are approved unless specifically authorized in writing by the Division. Further, the Contractor shall recognize that any and all services performed outside the scope covered by this Contract and attached budgets will be deemed by the Division to be gratuitous and not subject to any financial reimbursement.
4. All products are expected to be free of misspellings and typos, as well as punctuation, grammatical and design errors. Acronyms should be avoided; when used, they should be spelled out on first reference with the acronym in parentheses after that reference. For example, 'Division of Public Health (DPH)' on first reference.
5. No part of any funds under this contract shall be used to pay the salary or expenses of any contractor or agent acting for the contractor, to engage in any activity (lobbying) designed to influence legislation or appropriations pending before the State Legislature and/or Congress.
6. The contractor agrees that, if defunding occurs, all equipment purchased with Division funds for \$1,000.00 or more and a useful life expectancy of one (1) year, will be returned to the Division within thirty (30) days.
7. Contractors receiving Federal funds must comply with all the requirements of the Federal Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Non-profit Organizations.

**APPENDIX B (Of Contract Boilerplate)**  
**SERVICE AND BUDGET DESCRIPTION**

1. Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Email: \_\_\_\_\_

Contact Persons name: \_\_\_\_\_

E.I. No.: \_\_\_\_\_

2. Division: \_\_\_\_\_

3. Service: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Total Payment shall not exceed \_\_\_\_\_.

5. Payment(s) will be made upon presentation of invoice(s) with supporting documentation that verifies the completed, acceptable deliverable(s). Invoice must contain period of service, Vendor Invoice Number, Vendor EI Number, Contract Number, DPH Purchase Order Number and itemized description of the services provided to coincide with the contract deliverables. (See also Paragraph C.2. of the contract)

6. Source of Contract Funding:

\_\_\_\_\_ Federal Funds (CFDA# \_\_\_\_\_ )

\_\_\_\_\_ State Funds

\_\_\_\_\_ Other Funds

\_\_\_\_\_ Combination of Funds

**APPENDIX G:  
MONTHLY USAGE REPORT**

State of Delaware											
Monthly Usage Report											
Supplier Name:				Insert Contract No.	Report Start Date:						
Contact Name:					Report End Date:						
Contact Phone:					Today's Date:						
Agency Name or School District	Division or Name of School	Budget Code	<a href="#">UNSPSC</a>	Item Description	Contract Item Number	Unit of Measure	Qty	Environmentally Preferred Product or Service N Y	Additional Discount Granted	Contract Proposal Price/Rate	Total Spend
											\$0.00
											\$0.00
											\$0.00
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The following definitions are from the State Office of Supplier Diversity

Vendors wishing to apply for certification or gain more information on Supplier Diversity

programs may do so at:

<http://gss.omb.delaware.gov/osd/certify.shtml>

<http://gss.omb.delaware.gov/osd/index.shtml>

Definitions

**Women Owned Business Enterprise (WBE):**

At least 51% is owned by women, or in the case of a publicly owned enterprise, a business enterprise in which at least 51% of the voting stock is owned by women; or any business enterprise that is approved or certified as such for purposes of participation in contracts subject to women-owned business enterprise requirements involving federal programs and federal funds.

**Minority Business Enterprise (MBE):**

At least 51% is owned by minority group members; or in the case of a publicly owned enterprise, a business enterprise in which at least 51% of the voting stock is owned by minority group members; or any business enterprise that is approved or certified as such for purposes of participation in contracts subjects to minority business enterprises requirements involving federal programs and federal funds.

**Corporation:**

An artificial legal entity treated as an individual, having rights and liabilities distinct from those of the persons of its members, and vested with the capacity to transact business, within the limits of the powers granted by law to the entity.

**Partnership:**

An agreement under which two or more persons carry on a business, sharing in the profit or losses, but each liable for losses to the extent of his or her personal assets.

**Individual:**

Self-explanatory

For certification in one of above, the bidder must contract:

Michelle Morin  
Office of Supplier Diversity  
(302) 857-4554  
Fax (302) 677-7086